IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 572 OF 2006 .

Shri C.N.K. Pillai ... Petitioner.

V/s.

M/s Killick Nixon Ltd & anr. ... Respondents.

Shri S.S. Pathak and T.R. Yadav for the petitioner.

Mrs. N.R. Patankar with Shri V.P. Sawant for the respondents.

CORAM : V.C.DAGA, J.

DATED : 20.3.2006.

P.C. :

. Heard rival parties.

. This petition is directed against the order dated 30.9.2005 passed by 11th Labour Court at Mumbai, under section 33-C(2) of the Industrial Disputes Act. (I.D. Act).

. Learned Counsel appearing for the petitioner submitted that amount of compensation @ 15 days per year for 34 years was wrongly calculated. In his submission, it ought to have been divided by 26 and not 31 days.

. Per contra, learned Counsel for the respondent submitted that as per VRS Scheme company was to pay compensation at the rate of 45 days salary (Basic+ D.A.+ H.R.A.) from the date of

retirement for each year of service or part thereof in excess of 6 months.

. The learned Counsel for the respondent submits that the last drawn salary of employee to be considered for VRS would mean that the salary drawn in the month in which he was seeking voluntary retirement. He further submitted that so far as payment of compensation is concerned, the same was accepted by the workman in full and final settlement without reserving any right. Before acceptance of the amount, calculations were shown to him and he accepted the same without raising any dispute. In his submission, had he raised any dispute in this behalf, employer would not have accepted his request for grant of V.R.S. Having accepted the same; now he cannot be permitted to raise further claim by not accepting method of calculation made known to him before hand. Now, the petitioner is estopped from challenging the calculations and payments made. Learned Counsel for the respondent further submits that at any rate, this claim cannot be adjudicated upon by the Labour Court in 33-C(2) proceedings.

. In my considered view, the view taken by the Labour Court is a reasonable and possible view. The impugned order cannot be said to be perverse. This petition is therefore, liable to be dismissed in limine with no order as to costs.

. Needless to mention that in the event petitioner decides to adopt any other remedy other than remedy provided under section 33(C)(2) of the I.D.Act, this order shall not come in his way.

. In the result, petition is dismissed with no order as to costs.